



DEPARTMENT OF HEALTH & HUMAN SERVICES

REGION III
3535 MARKET STREET
PHILADELPHIA, PENNSYLVANIA 19104

TELEPHONE:
AREA CODE 215
596-6743-6744

OIG OFFICE OF AUDIT SERVICES

MAILING ADDRESS:
P.O. BOX 13716, MAIL STOP 9
PHILADELPHIA,
PENNSYLVANIA 19101

OCT 26 1995

Our Reference: Common Identification Number A-03-95-00200

Gretchen O. Lewis, Secretary
Department of Health and Human Resources
State of West Virginia
Building 3, State Capitol Complex
Charleston, West Virginia 25305

Dear Ms. Lewis:

Enclosed for your information and use are two copies of a HHS/OIG Office of Audit Services report entitled, REVIEW OF MEDICAID PAYMENTS FOR REHABILITATION SERVICES TO THE ABRAXAS FOUNDATION OF WEST VIRGINIA FOR THE PERIOD OCTOBER 1, 1993 THROUGH MARCH 31, 1994. Your attention is invited to the audit findings and recommendations contained in the report.

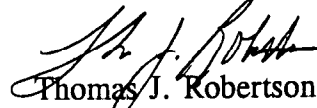
Final determination as to actions to be taken on all matters will be made by the HHS official named below. The HHS action official will contact you to resolve the issues in this audit report. Any additional comments or information that you believe may have a bearing on the resolution of this audit may be presented at that time.

In accordance with the principles of the Freedom of Information Act (Public Law 90-23), the HHS/OIG Office of Audit Services reports issued to the Department's grantees and contractors are made available, if requested, to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act, which the Department chooses to exercise. (See Section 5.71 of the Department's Public Information Regulation, dated August 1974, as revised.)

Page 2 - Gretchen O. Lewis

To facilitate identification, please refer to the referenced common identification number in all correspondence relating to this report.

Sincerely yours,


Thomas J. Robertson
Regional Inspector General
for Audit Services

Enclosures

Direct Reply to:

Associate Regional Administrator
Division of Medicaid
Health Care Financing Administration
Region III

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF MEDICAID PAYMENTS FOR
REHABILITATION SERVICES TO THE
ABRAXAS FOUNDATION OF WEST
VIRGINIA FOR THE PERIOD OCTOBER 1,
1993 THROUGH MARCH 31, 1994**



JUNE GIBBS BROWN
Inspector General

OCTOBER 1995
CIN: A-03-95-00200

EXECUTIVE SUMMARY

BACKGROUND

The Medicaid program, established by Title XIX of the Social Security Act, authorizes grants to States to provide medical services to low income and medically needy people. Medicaid services are defined in a State Plan that must meet minimum Federal standards. The States reimburse medical providers for Medicaid services. A portion of these payments are shared by the Federal government. In West Virginia, the Federal share is about 76 percent. The Health Care Financing Administration (HCFA) administers the Medicaid program at the Federal level. At the State of West Virginia, the Medicaid program is administered by the West Virginia Department of Health and Human Resources' Bureau for Medical Services.

Behavioral health rehabilitation services are designed for individuals with conditions associated with mental illness, substance abuse, and/or drug dependency. The West Virginia State Plan defines rehabilitation services as any medical or remedial service recommended by a physician or licensed practitioner of the healing arts, for the purpose of reducing physical or mental disability and restoration of a recipient to his/her best possible functional level. In West Virginia, rehabilitation services are provided in Behavioral Health Centers (BHC). In 1993, there were 74 BHC facilities in West Virginia, of which 23 were facilities that were dually licensed as BHCs and child care centers. Medicaid payments for rehabilitation services to the 23 residential BHCs for the period October 1993 through March 1994 totaled \$19.1 million. Of this amount, the Abraxas Foundation was paid \$4.5 million.

The Abraxas Foundation of West Virginia, located in Parkersburg, is a residential treatment facility that provides services to behaviorally and emotionally disturbed children. These services are provided in outpatient and residential settings. Abraxas residential population consists of 65 adolescent males between the ages of 14 and 18.

This is our second report concerning behavioral health rehabilitation services provided under West Virginia's Medicaid program. The first report, *Review of West Virginia's Corrective Actions to Improve Controls Over Medicaid Payments for Behavioral Health Rehabilitation Services (A-03-94-00211)*, was issued in September 1995. We reported that although some progress has been made in implementing corrective actions, more needs to be done to ensure that payments to providers are in accordance with the approved Medicaid State Plan. In addition to procedural improvements, we recommended that West Virginia make a financial adjustment of \$1,168,031 (Federal share \$878,985). West Virginia generally concurred with our recommendations. Both reviews were requested by HCFA's Associate Regional Administrator, Division of Medicaid.

OBJECTIVE

The objective of our review was to determine whether \$4,457,857 in Medicaid payments made to Abraxas for rehabilitation services between October 1, 1993 and March 31, 1994 were reasonable and allowable according to the Medicaid State Plan.

To achieve our objective, we randomly selected 100 from the 609 sampling units in our universe. A sampling unit contains all rehabilitation services paid on behalf of a client in a month. Rehabilitation services are billed in units, usually 30 or 60 minutes. Our sample included 56,594 units of rehabilitation services totaling \$724,211. We determined whether the services included in our sample were reasonable and allowable in accordance with the State Plan for rehabilitation services. After we completed a review of 35 sample items, we found a consistent pattern in the types of services documented. The HCFA agreed that we should limit our review to these 35 sample items which included 11,457 units of service totaling \$157,184.

RESULTS OF REVIEW

We found that 86 percent of the services reviewed do not meet the State Plan definition for rehabilitation services. These services, which totaled \$135,654, included general observations and monitoring, not medical or remedial rehabilitation services. Moreover, except for time attending school, we found that Abraxas billed for these observations and monitoring activities during each hour a client was awake.

CONCLUSION AND RECOMMENDATIONS

Although we limited our review to 35 of the 100 sampling units, we believe that we would have found similar billing practices in the remaining sampling units. Therefore, we are recommending that West Virginia:

- ▶ work with HCFA to perform a medical review of services provided by Abraxas and other residential BHCs in West Virginia to determine if the services are medical or remedial services that provide maximum reduction of the client's mental disability and restore the client to the best possible functional level;
- ▶ provide HCFA with periodic status reports on the results of these medical reviews; and
- ▶ make a financial adjustment of \$135,654 (Federal Share \$102,717) for unallowable rehabilitation services identified in this report and any additional unallowable rehabilitation services identified in future reviews conducted by West Virginia.

STATE AGENCY RESPONSE

On October 16, 1995, the State agency responded to a draft of this report. The State agency generally concurred with the draft report recommendations. We have made changes to this report to reflect certain language changes suggested by the State agency. We have summarized the State agency's response along with our comments after the Conclusions and Recommendations section of the report. The State agency's written response is included as Appendix B to this report.

TABLE OF CONTENTS

	PAGE
EXECUTIVE SUMMARY	i
INTRODUCTION	1
BACKGROUND	1
The Medicaid Program	1
West Virginia Behavioral Health Rehabilitation Services	1
The Abraxas Foundation of West Virginia, Inc.	2
Behavioral Health Center Funding	2
Prior OIG Report Identifies Weaknesses in State Agency Controls Over BHCs	3
OBJECTIVE, SCOPE, AND METHODOLOGY	3
FINDINGS AND RECOMMENDATIONS	6
OVER 86 PERCENT OF PAYMENTS REVIEWED DO NOT MEET STATE PLAN GUIDELINES FOR REHABILITATION SERVICES	6
ABRAXAS GENERALLY BILLED FOR REHABILITATION SERVICES FOR ALL AVAILABLE HOURS	13
CONCLUSION AND RECOMMENDATIONS	15
STATE AGENCY RESPONSE AND OIG COMMENTS	16
APPENDIX A: ABRAXAS FOUNDATION OF WEST VIRGINIA RESULTS OF SAMPLE REVIEW	A-1
APPENDIX B: STATE AGENCY COMMENTS	B-1

INTRODUCTION

BACKGROUND

The Medicaid Program

The Medicaid program, established by Title XIX of the Social Security Act, authorizes grants to States to provide medical services for low income and medically needy people. Medicaid services are defined in a State Plan that must meet minimum Federal standards. These plans may include additional optional services. Medicaid services are provided by physicians, medical laboratories, nursing homes, and hospitals. The States reimburse medical providers for Medicaid services. A portion of these payments are shared by the Federal government. The Federal Financial Participation (FFP) rate during our review was 75.72 percent.

The Health Care Financing Administration (HCFA) administers the Medicaid program at the Federal level. At the State level, the Medicaid program is administered by the West Virginia Department of Health and Human Resources' Bureau for Medical Services (the State agency).

West Virginia Behavioral Health Rehabilitation Services

Behavioral health rehabilitation services are designed for individuals with conditions associated with mental illness, substance abuse, and/or drug dependency. A physician or licensed practitioner of the healing arts must certify the need for these services. The State Plan defines rehabilitation services as any medical or remedial services recommended by a physician or licensed practitioner of the healing arts, for the purpose of reducing physical or mental disability and restoration of a recipient to his/her best possible functional level.

The State Plan categorizes rehabilitation services as crisis services and rehabilitative support services. Crisis services include crisis intervention, crisis support, and crisis stabilization. Rehabilitative support services include counseling, intensive-in-home services, specially designed behavior plans with scheduled direct intervention, and basic living skills development.

In West Virginia, rehabilitation services are provided in Behavioral Health Centers (BHCs). The BHCs are facilities that administer outpatient, residential, or other services to mentally ill, mentally retarded, or developmentally disabled individuals. In 1993, there were 74 BHC facilities in West Virginia, 23 were residential facilities that were dually licensed as BHCs and child care centers. Prior to October 1990, these facilities provided basic residential services and were not licensed as BHCs. Medicaid payments for rehabilitation services to the 23 residential BHCs for the period October 1993 through March 1994 totaled \$19,176,677. Of this amount, the Abraxas Foundation was paid \$4,457,857.

The Abraxas Foundation of West Virginia, Inc.

The Abraxas Foundation of West Virginia, Inc., a dually licensed BHC, provides rehabilitation services to behaviorally and emotionally disturbed children. Abraxas operates three programs: (1) Crossroads - for behaviorally and emotionally disturbed clients (residential), (2) Pathways - for sexual offender clients (residential), and (3) Abraxas Community Treatment - for outpatient community treatment. Abraxas is accredited by the Joint Commission on Accreditation of Healthcare Organizations in accordance with the 1993 Accreditation Manual for Mental Health, Chemical Dependency and Mental Retardation/Developmental Disabilities.

Abraxas residential population consists of 65 adolescent males, 14 to 18 years of age, Medicaid eligible, and in the custody of the State agency. All inpatient admissions to Abraxas are court ordered. Court orders are signed by a judge. Abraxas accepts no emergency or voluntary admissions. In addition to the treatment programs, residents attend a school operated by the West Virginia Department of Education.

Upon admission, each client's mental condition is assessed through psychiatric evaluations, diagnostic interviews, and psychosocial evaluations. The client's psychiatric condition is identified using the Diagnostic and Statistical Manual of Mental Disorders (Fourth Edition-Revised) classification system. Treatment plans are then developed by a team of behavioral health specialists. These specialists meet to identify the client's needs and establish goals, interventions, and treatment time frames. They also identify the resources needed to implement the individual treatment plans. The treatment plans are updated monthly and signed by a physician. Court orders, psychiatric evaluations, diagnostic interviews, psychosocial evaluations, treatment plans, pre-discharge psychiatric evaluations, and discharge summaries are included in client files.

Behavioral Health Center Funding

Prior to October 1990, the BHCs were funded by the West Virginia Department of Health and Human Resources Division of Social Services (DSS). The DSS paid the BHCs a per diem rate for each client in the facility. The DSS reduced its per diem rate in October 1990 and instructed the facilities to bill Medicaid for clinic services to supplement its lost revenue. The HCFA subsequently determined that the BHCs did not meet Federal requirements to qualify as clinics and that the services provided were not clinic services. In June 1992, the State agency submitted a State Plan amendment to HCFA to include mental health rehabilitation services as an optional service. The HCFA approved the amendment on July 8, 1993 with a retroactive effective date of April 1, 1992.

Prior to January 1995, Medicaid reimbursements for behavioral health rehabilitation services were made on a fee-for-service basis. Beginning in January 1995, the State agency instituted a bundled rate concept for services provided in dually licensed residential facilities. Three levels of service, each with a different per diem rate representing a different treatment intensity, have been defined. A fourth level or rate, which will

reimburse crisis services, may only be provided in licensed children's emergency shelters.

The State agency certifies dually licensed residential child care facilities to perform one or more of these levels of service. Each level of service has been assigned a procedure code. The State agency certified Abraxas at Level III. Abraxas personnel informed us that there will be no changes in staffing or services provided to clients with this new system of reimbursement.

We have not audited the State agency's system of reimbursement based on a daily rate per client which was effective January 1, 1995. Therefore, we express no opinion on the levels of service, reimbursement rates, or the levels of service the State agency certified for Abraxas.

Prior OIG Report Identifies Weaknesses In State Agency Controls Over BHCs

This is our second report concerning behavioral health rehabilitation services provided under West Virginia's Medicaid program. The first report, *Review of West Virginia's Corrective Actions to Improve Controls Over Medicaid Payments for Behavioral Health Rehabilitation Services (A-03-94-00211)*, was issued in September 1995. We reported that although some progress has been made in implementing corrective actions, more needs to be done to ensure that payments to providers are in accordance with the approved Medicaid State Plan. In addition to procedural improvements, we recommended that the State Agency make a financial adjustment of \$1,168,031 (Federal share \$878,985).

The State Agency agreed to make a financial adjustment totaling \$812,190 of the \$878,985 that we recommended. The State agency also indicated that it has made progress in implementing corrective actions, monitoring, and desk reviews of provider payments. These actions included updating its billing manual, notifying providers of program changes, billing practices and program clarifications; conducting quarterly desk reviews of all BHC's; establishing a Office of Surveillance and Utilization Review for monitoring and conducting program reviews; and revising procedures and format for provider internal reviews.

Both OIG reviews were requested by HCFA's Associate Regional Administrator, Division of Medicaid.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our audit was made in accordance with generally accepted government auditing standards. The objective of our review was to determine if rehabilitation services provided by Abraxas were reasonable, allowable and documented in the clients' medical records according to the approved Medicaid State Plan.

Scope

The audit universe included all behavioral health rehabilitation claims reimbursed Abraxas by the State agency between October 1, 1993 and March 31, 1994. Our audit universe consisted of 609 sampling units that included 339,789 units of service totaling \$4,457,857. A sampling unit contained all rehabilitation services paid for a Medicaid recipient during any one month. A payment may have been for one or more months of service. A few Medicaid recipients we sampled had more than one paid claim. The services were billed by applying the number of units of service to the designated rehabilitation procedure code. A unit of service is the length of treatment, usually 30 or 60 minutes. From the 609 sampling units, we selected a random sample of 100. The 100 sampling units included 56,594 units of rehabilitation services totaling \$724,211.

Methodology

Our review was limited to determining whether services were covered under the Medicaid State Plan and documented in the clients' medical records. It did not include an assessment of the quality of services provided by Abraxas. To accomplish our objective, we gathered information on Abraxas' operations, including its internal controls. We then conducted a detailed review of client files.

To obtain an understanding of Abraxas' operations, we interviewed the Administrator and Assistant Administrator of Operations. We also reviewed admission and discharge criteria, billing policies and procedures, client treatment/activity schedules, staffing, staff qualifications, and information related to Abraxas' accreditation by the Joint Commission on Accreditation of Healthcare Organizations.

To understand Abraxas' internal controls for billing the State agency for reimbursement, we interviewed the Administrator and obtained a flow chart of Abraxas' process for billing the State agency for Medicaid services. Based on this information, we performed tests of the process by tracing the documentation from the service notes in the client file to the remittance advice. We also determined if Abraxas maintained edits in its billing system to ensure that it does not bill for service in excess of State agency limits.

For each sampling unit we obtained copies of selected documentation from the client's file. These documents included treatment plans, court orders, psychiatric evaluations, diagnostic interviews, psychosocial evaluations, pre-discharge psychiatric evaluations, discharge summaries, and service notes. From information contained in the client's file reviewed, we determined: 1) admission and discharge dates; 2) reason for admission; 3) the client's previous placements; 4) Abraxas' assessment at admission; 5) psychiatric diagnosis; 6) the client's care program; and 7) need for continuing care. Next, we determined if services in our sampling unit were documented in the client's medical record and met the State Plan standards pertaining to rehabilitation services. We considered a unit of service unallowable if it was undocumented, incorrectly billed or did not meet the State Plan guidelines.

After we completed a review of 35 of our 100 sample items, we met with HCFA Regional Officials to inform them of the results. We found a consistent pattern in the types of services provided. Based on this information, we did not believe that the majority of services met the State Plan definition of rehabilitation services. The HCFA agreed that we should limit our review to the 35 sample items we completed. Therefore, we are reporting actual results for those items reviewed and not projecting to the universe. The 35 sample items reviewed included 11,457 units of service totaling \$157,184.

Our review was conducted at Abraxas, Parkersburg, West Virginia from January through March 1995.

FINDINGS AND RECOMMENDATIONS

OVER 86 PERCENT OF PAYMENTS REVIEWED DO NOT MEET STATE PLAN GUIDELINES FOR REHABILITATION SERVICES

We found that \$135,654 (86 percent) of \$157,184 in Medicaid payments to Abraxas that we reviewed were for services that did not meet State Plan guidelines or were undocumented or incorrectly billed. We identified 10,069 units of service totaling \$134,012 for seven procedure codes that did not meet the definition of rehabilitation services. The services appear to be observations and monitoring of clients, not medical or remedial services. We identified 127 units of service totaling \$1,642 that were undocumented or incorrectly billed. We also found that, except for time spent at school, Abraxas generally billed for all hours that a client is awake. A summary of our review is found in Appendix A to this report.

Overall, our review found that documentation describing the services provided did not indicate how the 10,069 units of service: (1) provided maximum reduction of the clients' mental disabilities; and (2) restored the clients to their best possible functional level. The unallowable services were billed under procedure codes for basic living skills, behavioral management implementation, counseling services, and crisis intervention. The table below shows the procedure codes that accounted for the \$134,012 in questioned payments.

Table 1. Questioned Rehabilitation Procedures

Code	Rehabilitation Service	Unit of Service	Sample Amount	Questioned Amount	%
W0498	Basic Living Skills	30 min	\$76,560	\$75,768	98.97%
W0355	Behavioral Management Implementation	30 min	\$55,502	\$54,886	98.89%
W0482	Intensive Group Counseling	30 min	\$4,672	\$1,078	23.07%
H5020	Supportive Group Counseling	60 min	\$4,530	\$614	13.55%
W0480	Conjoint/Family Counseling	30 min	\$4,181	\$630	15.07%
W0314	Individual Counseling	30 min	\$3,500	\$595	17.00%
W0357	Crisis Intervention	30 min	\$882	\$441	50.00%
Total				\$134,012	

Of the \$134,012 in questioned rehabilitation services, \$130,654 represented reimbursement for two services--basic living skills (procedure code W0498) and behavioral management implementation (procedure code W0355). Services paid under these two codes between October 1993 and March 1994 totaled \$3,852,651 or 86 percent of the \$4,457,857 in total Medicaid payments to Abraxas.

Basic living skills and behavioral management implementation account for 97 percent of the \$134,012 in questioned rehabilitation services and 86 percent of all Medicaid payments to Abraxas during the period October 1, 1993 through March 31, 1994.

Basic Living Skills - Procedure Code W0498

We identified 6,314 units of basic living skills services totaling \$75,768, that we consider unallowable. These services did not appear to be therapeutic activities that focus on basic living skills or services designed to improve or preserve a recipient's level of functioning as required by the State Plan. Rather, the services represented observations and monitoring of client activities, not medical or remedial services.

A unit of service for basic living skills is 30 minutes and is reimbursed \$12. The State Plan defines basic living skills as *a combination of structured group activities and individual support offered to recipients who have basic skill deficits. These skill deficits may be due to factors such as history of abuse or neglect, years spent in institutionalized settings or supervised living arrangements that did not allow growth and development in the areas of daily living skills that are acquired during the formative years.*

Effective treatment will *provide therapeutic activities focused upon basic living skills services which are elementary, basic and fundamental to higher level skills and are designed to improve or preserve a recipient's level of functioning. Services include but are not limited to learning and demonstrating personal hygiene skills, learning to responsibly manage sexual behavior, managing living space, social appropriateness and learning of daily living skills. The same services may be provided to an individual in his/her natural environment through a structured program as identified in the goals and objectives described in the treatment plan.* The following examples are services that we do not believe Abraxas should have billed the Medicaid program for providing basic living skills:

- Client spent 6 hours, 9:00 AM to 3:00 PM, in isolation in the green room. During this time, the client worked on his school assignments, took smoke breaks every two hours, and ate lunch. The client also used profanity and made sexual gestures.

Units of Service: 12

Dollar Value: \$144.00

- ▶ Between 3:00 PM and 12:00 midnight, client attended a Pittsburgh Pirates game with recreation staff. The client viewed the game and socially interacted with peers and followed all directions. Abraxas staff provided client with positive feedback for his behavior while at the game.

Units of Service: 18 Dollar Value: \$216.00

- Between 5:00 PM and 12:00 midnight, client went to a truck and tractor pull at Langely field in Charleston with recreation staff. The client followed rules and regulations during the outing. Staff gave the client positive feedback at the races and the client thanked the staff for taking him.

Units of Service: 14 Dollar Value: \$168.00

- Between 12:00 midnight to 9:00 AM, client slept all night long, client got up on first call and did his dorm job. The client went to breakfast with staff and peers and got on the bus to go to school. Client complied with all aspects of his treatment plan, staff complimented client on his good feedback, and client accepted feedback in a positive manner.

Units of Service: 5 Dollar Value: \$60.00

We observed service notes similar to the above note on numerous instances. Although the service note covers the period 12:00 midnight to 9:00 AM, the units of service represent the period 6:30 AM through 9:00 AM.

- From 6:30 PM to 9:00 PM, client returned from group therapy and worked in the cabin area washing cars, played basketball, visited the canteen, took care of his personal hygiene, and prepared for evening closure. The client entered conversation while washing cars at the appropriate times and the client was complemented on his positive behavior. The client accepted all feedback in a positive manner.

Units of Service: 5 Dollar Value: \$60.00

Abraxas billed basic living skills for transporting clients to and from doctors or other medical providers and for the time spent at the offices. Contrary to the State Plan, however, these services were not therapeutic activities focused upon basic living skills services designed to improve or preserve a recipient's level of functioning. When asked why basic living skills and not transportation was billed for these services, Abraxas personnel said that because they were monitoring the clients during the period that the transportation and medical treatment took place, they billed basic living skills rather than transportation. The following example represents a typical service note for transporting a client that was billed as a basic living skill.

- Between 8:00 AM and 11:00 AM, client was transported to dentist's office for fillings. The client showed positive behavior by following rules, regulations, staff directions, and cooperating with the dentist and his staff. The staff gave the client positive verbal and written feedback and the client thanked the staff for the positive feedback.

Units of Service:

6

Dollar Value:

\$72.00

As the above examples demonstrate, the services documented by service notes in the clients' medical files did not meet the definition for basic living skills services in the State Plan. According to the State Plan, the purpose of basic living skills services is to provide therapeutic activities focused upon basic living skills services which are elementary, basic, and fundamental to higher level skills and are designed to improve or preserve a recipient's level of functioning. Basic living skills services include, but are not limited to, learning and demonstrating personal hygiene skills, learning to responsibly manage sexual behavior, managing living space, social appropriateness and learning skills of daily living.

Behavioral Management Implementation - Procedure Code W0355

We identified 3,564 units of behavioral management implementation totaling \$54,886, that we consider unallowable. The services appear to be observations and monitoring of clients, not medical or remedial services. According to the State Plan, general observations and monitoring alone are not acceptable methods of implementing the behavior management plan.

A unit of behavioral management implementation service is 30 minutes and is reimbursed \$15.40. The State Plan states that *behavioral management services consist of a two step approach in order to change or modify maladaptive behaviors. The first step is the development of a behavioral plan which specifically addresses behaviors to be extinguished. The plan must include specific objectives, criteria, methods of implementation, schedule and methods of reinforcements, projected achievement dates, and persons responsible to implement the plan. The process for plan development consists of assessment, data collection, observation of the client, and testing. The process determines the continuation, modification, or termination of the plan.*

The second step, behavioral management implementation, *is the hands-on, face-to-face contact interventions with the client. A specific intervention written in the plan must be provided in order for this service to be acceptable. General observations and monitoring alone are not acceptable methods of implementing the plan.*

The services we questioned did not meet the State Plan requirements for behavioral management implementation services. The following are examples of services that Abraxas billed to the Medicaid program as behavioral management implementation that we consider unallowable.

- ▶ During the period 3:00 PM to 11:00 PM, client watched a football game on television, went to the recreation room, played ping pong, shot pool, lifted weights, ate dinner, returned to the dorm, played basketball, had his hair cut, attended a family meeting, helped another client with a problem, and went to his space. The client showed non-compliance with rules by breaking smoking policy. Staff talked with client about behavior during the night and how it can be improved. Client stated that he messed up last night but would start being more positive.

Units of Service: 15 Dollar Value: \$231.00

- ▶ Between 5:00 PM and 11:00 PM, client went fishing with staff and peers, attended a house meeting discussing his day, and retired to his space for the night. The client was positive in his treatment plan shown by no loss of points. Staff encouraged client to keep focused on his treatment plan and the client accepted staff's feedback.

Units of Service: 11 Dollar Value: \$169.40

- ▶ Between 3:30 PM and 11:00 PM, client interacted with staff and peers playing basketball and passing football, went to dinner, went to recreation room to play ping pong, shoot pool, and play board games and cards with staff and peers, and watched a movie with staff and peers. The client showed poor impulse control and was non-compliant by smoking twice. Staff reminded client of no smoking policy and lowered feedback.

Units of Service: 14 Dollar Value: \$215.60

As these examples illustrate, the services documented appear to be observations and monitoring of clients, not medical or remedial services. According to the State Plan, general observations and monitoring alone are not acceptable methods of implementing the behavior management plan.

Unallowable Counseling Services

We identified 176 units of counseling services totaling \$2,917 that we considered unallowable. The questioned counseling services did not represent face-to-face scheduled supportive treatment modalities which include investigation, decision making, assessment, and insight development. Rather, the services appeared to be merely observations and monitoring of clients, not medical or remedial services.

The State Plan defines counseling as *a face-to-face scheduled supportive treatment modality which includes investigation, decision making, assessment, and insight development in a group setting, individually, or conjointly.*

Group Counseling - Procedure Codes W0482 and H5020

We identified 141 units of group counseling totaling \$1,692 that did not meet the State Plan definition for group counseling services. The State agency's behavioral health rehabilitation manual, effective February 15, 1994¹, classifies group counseling as intensive group counseling and supportive group counseling.

Intensive group counseling is defined as *face-to-face structured intervention (i.e., psychotherapy, specialty therapies, etc.) in a group setting to improve an individual's cognitive processing and/or functional abilities. The intent of this type of intervention is to focus on the dynamics of a client's problems (i.e., the cause of the individual's dysfunctions; resolution of intrapsychic/interpersonal conflicts; behavior patterns; and to produce change toward identifiable goals).* Intensive group counseling is billed as procedure code W0482. A unit of service is 30 minutes and is reimbursed \$9.80.

Supportive group counseling is defined as *face-to-face intervention in a group setting which is intended to provide support to maintain clients at their current level of functioning and to assist individuals in their day to day management and problem solving.* Supportive group counseling is billed as procedure code H5020. A unit of service is 60 minutes and is reimbursed \$20. The following are examples of services that Abraxas billed to the Medicaid program as group counseling.

- ▶ From 11:30 AM to 9:00 PM, client played in a softball game in Elkins, WV with recreation staff. The client learned the batting technique and fielding skills, socially interacted with peers, and worked as a team.

Units of Service and Code: 19 of W0482

Dollar Value: \$186.20

- ▶ Between 6:00 PM and 8:00 PM, the client participated in recreation group. Client worked on haunted house doing stuffed dummies and making other items to fix haunted house.

Units of Service and Code: 4 of W0482

Dollar Value: \$39.20

Conjoint/Family Counseling - Procedure Code W0480

We identified 18 units of conjoint/family counseling totaling \$630 that did not meet the service definition contained in the State Plan. The State agency's behavioral health rehabilitation manual, defines conjoint/family counseling as *face-to-face, structured intervention, (i.e., psychotherapy, specialty therapies, family preservation interventions, etc.) to improve an individual's cognitive processing and/or functional abilities. The intent of this type of intervention is to focus on the dynamics of a client's problems, (i.e.,*

¹ Because neither the State Plan nor the behavioral health rehabilitation manual, effective June 1, 1992, define group, individual, or conjoint/family counseling, we are including the definitions from the behavioral health rehabilitation manual, effective February 15, 1994.

Conjoint/family counseling is billed as procedure code W0480. A unit of service is 30 minutes and is reimbursed \$35. The following are examples of conjoint/family counseling that we considered unallowable.

- Units of Service: 2 Dollar Value: \$70.00**

- Units of Service:** **3**
- Dollar Value:** **\$105.00**

- Units of Service: 3 Dollar Value: \$105.00**

We identified 17 units of individual counseling totaling \$595 that did not meet the State Plan requirements for these services. The State agency's behavioral health rehabilitation manual, defined individual counseling as *a face-to-face intervention which is intended to provide support to maintain clients at their current level of functioning and to assist individuals in their day to day management and problem solving*. Individual counseling is billed as procedure code W0314. A unit of service is 30 minutes and is reimbursed \$35. The following are examples of individual counseling services that we considered unallowable.

- 12

Units of Service: 2

Dollar Value: \$70.00

- ▶ During the period 12:30 PM to 4:00 PM, client hiked with recreation staff around Mt. Wood Park, observed deer around park, and socially interacted with staff. The client displayed positive behavior throughout entire hike. Staff talked with client about upcoming recreation outings and provided client with positive feedback for his behavior during the hike. The client thanked staff for taking him along on the hike and for his feedback and asked when he could go on another hike.

Units of Service: 7

Dollar Value: \$245.00

- ▶ Between 8:30 PM and 9:30 PM, client participated in strengthening exercises for a weak shoulder. The recreation staff instructed client in exercises including overhead press, side laterals, front raises, shrugs, and upright rows. The client displayed positive behavior on his treatment plan objectives and target behaviors while performing exercises. The staff counseled client on the proper technique for each exercise, the order to perform each exercise, and provided the client with positive feedback for his behavior. The client acknowledged staff's feedback by thanking him and saying that he appreciated the help.

Units of Service: 2

Dollar Value: \$70.00

As the above examples demonstrate, the services documented did not meet the State Plan requirements for group, individual, or conjoint/family counseling services. According to the State Plan, counseling services are face-to-face scheduled supportive treatment modalities which include investigation, decision making, assessment, and insight development in a group setting, individually or conjointly. From the information documented, we do not believe the services correspond with the State Plan definition.

ABRAXAS GENERALLY BILLED FOR REHABILITATION SERVICES FOR ALL AVAILABLE HOURS

Except for time spent at school, Abraxas generally billed the Medicaid program for rehabilitation services for the time that a client was awake. Abraxas' billing period began at 6:30 AM (8:00 AM on Saturday and Sunday) and, except for school time, continued until 10:30 PM (11:00 PM on Saturday). Abraxas officials stated that because they operate a residential program reimbursed under a fee-for-service system, they must document each client's activities each hour of the day and bill what they believe to be the appropriate procedure code.

Abraxas officials acknowledged, however, that not every minute of each day can be devoted to rehabilitation activities. Nonetheless, Abraxas documents the client's activities and bills for rehabilitation services for all hours that a client is awake; even if the Abraxas staff merely is observing or monitoring a client's daily activities. For example, when a client is involved in a recreation activity such as playing football, baseball or fishing, the client is being observed by Abraxas staff. According to Abraxas, observation time is

billed because, it provides Abraxas staff the opportunity to observe a client's behavior and to determine the level of care that should be provided. The tables below provide two examples that describe the services provided and billed for an Abraxas client on a typical day.

Table 2. Client Services Provided on Tuesday, April 6, 1993

Time	Service Notes	Code	Units	Unit Cost	Total Cost
6:30AM to 9:00AM	Client did all tasks assigned to him	W0498	5	\$12.00	\$60.00
3:00PM to 3:30PM	Client participated in recreational activities upon return from school	W0355	1	\$15.40	\$15.40
3:30PM to 4:30PM	Ref lesson 3, irrational thoughts, client has not been to the groups, was very disruptive	W0482	2	\$9.80	\$19.60
4:30PM to 6:00PM	Client watched TV and participated in recreational activities	W0498	3	\$12.00	\$36.00
6:00PM to 9:30PM	Client played basketball and watched a movie with staff	W0355	7	\$15.40	\$107.80
9:30PM to 10:00PM	Client attended closure meeting	W0482	1	\$9.80	\$9.80
10:00PM to 11:00PM	Client brushed his teeth and went to bed	W0498	1	\$12.00	\$12.00
Total					\$260.60

Table 3. Client Services Provided on Tuesday, April 13, 1993

Time	Service Notes	Code	Units	Unit Cost	Total Cost
7:30AM to 9:00AM	Client out of bed with no problems, ate breakfast, did dorm job, and prepared for therapy	W0498	4	\$12.00	\$48.00
8:00AM to 11:30AM	Met with client's mother and discussed her visit with client	W0480	7	\$35.00	\$245.00
11:30AM to 12:30PM	Client watched other clients play board games and got ready for lunch	W0498	2	\$12.00	\$24.00
12:30PM to 6:30PM	Client cleaned his room, listened to some music, was involved in some horseplay, watched a movie, and played softball	W0355	12	\$15.40	\$184.80
6:30PM to 9:30PM	Client played softball, watched TV and talked with staff	W0498	6	\$12.00	\$72.00
9:30PM to 10:00PM	Client attended closure meeting	W0482	1	\$9.80	\$9.80
10:00PM to 11:00PM	Client prepared for spaces and slept	W0498	1	\$12.00	\$12.00
Total					\$595.60

CONCLUSIONS AND RECOMMENDATIONS

Although we limited our review to 35 of the 100 sampling units, we believe that we would have found similar billing practices in the remaining sampling units. Our review of 35 sample items representing 11,457 units of service totaling \$157,184 showed that although the majority of services were supported by service notes in the client files, the services documented were observations and monitoring of client activities, not medical or remedial services. Specifically, we identified 10,069 units of service totaling \$134,012, that did not meet the State Plan's definition of rehabilitation services. The unallowable services were billed under procedure codes for basic living skills, behavioral management implementation, counseling services, and crisis intervention. We also determined that 127 units of service totaling \$1,642, were either not documented by service notes or were incorrectly billed. Finally, our review disclosed that, except for school time, Abraxas generally bills for all hours that a client is awake.

Although treatment plans are prepared for each client and service notes include a statement on the relationship of the service to the treatment plan, the service notes do not always describe the relationship of the service provided to specific objectives in the client's treatment plan. Consequently, we could not determine how the services documented met the needs of the client and how the services: (1) provide maximum reduction of the client's mental disability; and (2) restore the client to his best possible functional level.

As a result of our review, we are recommending that the State agency:

- ▶ work with HCFA to perform a medical review of services provided by Abraxas and other residential BHCs in West Virginia to determine if the services are medical or remedial services that provide maximum reduction of the client's mental disability and restore the client to the best possible functional level;
- ▶ provide HCFA with periodic status reports on the results of these medical reviews; and
- ▶ make a financial adjustment of \$135,654 (Federal Share \$102,717) for unallowable rehabilitation services identified in this report and any additional unallowable rehabilitation services identified in future reviews conducted by the State agency.

STATE AGENCY RESPONSE AND OIG COMMENTS

On October 16, 1995, the State agency responded to our draft report. The State agency generally concurred with the recommendations and provided some general comments. Based on the State agency's response, we have made some changes to this report.

The State agency agreed to make a financial adjustment of \$102,717 for unallowable rehabilitation services identified in our report and any additional unallowable rehabilitation services identified in future reviews. The State agency agreed in part with our recommendations to (1) work with HCFA to perform a medical review of services provided by Abraxas and other residential BHCs in West Virginia and (2) provide HCFA with periodic status reports on the results of the reviews.

The State agency believes that by instituting a bundled rate reimbursement system it has acted to resolve the problem caused by its fee-for-service methodology and its inherent openness to abuse in a residential setting (i.e. BHCs billing for all hours the client is awake and for services not in accordance with the approved State Plan). The State agency stated that our recommendation to perform medical reviews would prove counterproductive because it would tie up staff resources in lengthy reviews that would focus on services which can no longer be billed by dually licensed BHCs. The State agency would prefer to use its monitoring staff on current reviews.

We are pleased that the State agency concurred with our recommendation to make a financial adjustment for unallowable services identified during our review. We are also encouraged that the State agency intends to perform reviews of current services. We agree that the State agency needs to monitor reimbursements under its bundled rate method of reimbursement to ensure that the services are in accordance with the approved State Plan.

We believe, however, that medical reviews of rehabilitation services provided by Abraxas and other BHC providers are still warranted to identify those services billed to Medicaid that are not in accordance with State Plan guidelines. As demonstrated by our audit, over 86 percent of the payments we reviewed for rehabilitation services at Abraxas did not meet State Plan guidelines. Moreover, as stated on page 3, Abraxas personnel indicated to us that there would be no changes in staffing or services provided to clients under the new bundled rate system of reimbursement. Therefore, the current bundled rates paid to Abraxas would be excessive to the extent that the rates were established based on past fee-for-service claims for services that did not meet State plan guidelines similar to those identified in our review.

Our review identified a serious problem with services billed as rehabilitation services by Abraxas. We believe that the State agency needs to determine whether other dually licensed BHC providers also billed Medicaid for services not in accordance with the

approved State Plan. The State agency should not dismiss providers' past actions by implementing a new method of reimbursement. Therefore, we believe our recommendation that the State agency perform medical reviews of services provided by dually licensed BHCs remains valid.

APPENDIX A

ABRAXAS FOUNDATION OF WEST VIRGINIA RESULTS OF SAMPLE REVIEW

Sample			Allowed		Unallowed (1)		Unallowed (2)	
No.	Units	Amount	Units	Amount	Units	Amount	Units	Amount
1	126	\$1,653.00	45	\$681.00	14	\$168.00	67	\$804.00
2	404	4,769.92	32	305.92			372	4,464.00
3	22	378.00	18	336.00	4	42.00		
4	2	178.50	2	178.50				
5	372	4,464.00					372	4,464.00
6	420	4,937.92	44	435.68	4	38.24	372	4,464.00
7	372	4,464.00					372	4,464.00
8	16	152.96	16	152.96				
9	372	4,464.00					372	4,464.00
10	372	4,464.00					372	4,464.00
11	744	8,928.00			12	144.00	732	8,784.00
12	108	1,601.60	21	314.30	1	10.50	86	1,276.80
13	74	1,975.00	59	1,540.00			15	435.00
14	553	7,684.20	46	796.60	1	29.40	506	6,858.20
15	83	2,080.00	62	1,540.00			21	540.00
16	424	6,217.70	71	1,183.90			353	5,033.80
17	93	2,325.00	92	2,305.00			1	20.00
18	5	100.00	5	100.00				
19	4	42.00	4	42.00				
20	345	5,342.40	41	788.20			304	4,554.20
21	541	7,902.40	78	1,198.80			463	6,703.60
22	193	2,760.50	39	633.70			154	2,126.80
23	469	6,590.10	77	1,098.30	4	48.00	388	5,443.80
24	35	491.20	6	61.60			29	429.60
25	486	7,149.40	40	905.80	1	35.00	445	6,208.60
26	319	4,949.60	32	948.50	17	182.70	270	3,818.40
27	779	10,567.30	72	983.50	12	224.00	695	9,359.80
28	766	10,475.30	74	906.50	1	12.00	691	9,556.80

Sample			Allowed		Unallowed (1)		Unallowed (2)	
No.	Units	Amount	Units	Amount	Units	Amount	Units	Amount
29	428	6,208.20	42	712.60			386	5,495.60
30	10	105.00	10	105.00				
31	795	10,787.60	91	1,080.80	38	502.00	666	9,204.80
32	759	10,445.50	65	1,022.70			694	9,422.80
33	16	168.00	16	168.00				
34	396	5,062.10	29	454.10			367	4,608.00
35	554	7,299.50	32	550.50	18	206.00	504	6,543.00
	11,457	\$157,183.90	1,261	\$21,530.46	127	\$1,641.84	10,069	\$134,011.60

(1) Units of service that were undocumented or incorrectly billed.

(2) Units of service that do not meet the State Plan definition of rehabilitation services.

APPENDIX B

STATE AGENCY COMMENTS



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Gaston Caperton
Governor

Office of The Secretary
State Capitol Complex, Building 3
Charleston, West Virginia 25305
Telephone: (304) 558-0684

Gretchen O. Lewis
Secretary

October 16, 1995

Thomas J. Robertson
Regional Inspector General for Audit Services
Department of Health and Human Services
Region III
3535 Market Street
Philadelphia, Pennsylvania 19104

RE: Common Identification Number A-03-95-00200

Dear Mr. Robertson:

The following are the comments of the Department of Health and Human Resources to the draft Office of Inspector General (OIG) report entitled: Review of Medicaid Payments for Rehabilitation Services to the Abraxas Foundation of West Virginia for the Period October 1, 1993 through March 31, 1994. In the interest of clarity, we are prefacing our responses to specific recommendations by comments and suggested language changes on each section in order.

EXECUTIVE SUMMARY:

Background: (page 1)

- ¶2: The West Virginia State Plan defines rehabilitation services as any medical or remedial service recommended by a physician or licensed practitioner of the healing arts, for the purpose of reducing physical or mental disability and restoration of a recipient to his/her best possible functional level.
- ¶2: The twenty-three residential rehabilitation centers are dually licensed as behavioral health centers and child care centers.

BACKGROUND: (page 1)

The Medicaid Program

¶2: The Bureau for Medical Services is the single state agency.

West Virginia Behavioral Health Rehabilitation Services

¶3: The West Virginia State Plan defines rehabilitation services as any medical or remedial service recommended by a physician or licensed practitioner of the healing arts, for the purpose of reducing physical or mental disability and restoration of a recipient to his/her best possible functional level.

Behavioral Health Center Funding: (page 2)

In January 1995 the Bureau instituted a "bundled rate" concept for services provided in the dually licensed residential facilities. A per diem bundled rate was established for each facility based on a service intensity level. Abraxas is classified as a Level III facility.

¶1 The remaining beds were initially certified as Level II, but Abraxas appealed this certification. After an examination of the diagnostic criteria of children served, these beds were also certified Level III.

Prior OIG Report Identifies Weaknesses In State Agency Controls Over BHCs:
(page 3) (A-03-94-00211)

¶3 The Bureau for Medical Services has made strides in implementing corrective actions, monitoring, desk reviews, etc., of provider payments and we outline below, as we did in our prior response, these actions:

- a. The Department, in conjunction with our fiscal agent, Consultec, sent to all providers an updated billing manual that supplements their specific provider manual. We also publish a quarterly newsletter that is sent to all providers to update them on specific areas of the Medicaid program.

The Bureau sends frequent program instructions to providers that inform them of specific changes in the program, billing practices, provides program clarification. etc.

- b. Desk Reviews: The Bureau for Medical Services is currently reviewing all BHCs' reimbursement on a quarterly basis. We review each individual provider for increase and decrease in reimbursements, perform trend analysis, search for outliers, etc. We review both providers and recipients and review units of service, service limits, etc. This quarterly desk review assists the Bureau in identifying BHCs to be referred for on-site monitoring and also assists the Bureau in determining the effect of newly established procedures, service limits, etc. We review both rehabilitation (943) and clinic service (5260) BHC providers.
- c. The Bureau for Medical Services has also established a new Office of Surveillance and Utilization Review (SURS) which will add approximately 20 new staff positions and/or contracted professionals for monitoring and program review. Part of their task will be analysis of management information summaries, desk reviews, trend analysis, etc. This unit has established policies and procedures for desk and on-site procedure specific and client specific reviews.
- d. The Bureau for Medical Services has revised the procedure and the format for the provider internal review process. Additionally, we revised our provider agreements with the BHCs and included a fiscal penalty for non-compliance with the review process. Also, all void and adjustment forms are received and reviewed by the Bureau for Medical Services to insure the BHC's compliance.
- e. In addition, the Bureau has established claims processing edits to insure that provider overbillings, multiple billings and/or inappropriate procedure code billings will be rejected by the MMIS system.

The Bureau for Medical Services provided documentation of the above cited corrective actions in our response to Review of West Virginia's Corrective Actions to Improve Controls Over Medicaid Payments for Behavioral Health Rehabilitation Services A-03-94-00211.

OBJECTIVE, SCOPE AND METHODOLOGY: (page 3)

The Bureau would like to note that the methodology employed by the OIG review was based on paid claims, not on dates of service. The impact of this methodology is important because many if not all of the services reviewed were provided prior to the effective date of the final rehabilitation manual which significantly tightened the criteria for rehabilitation services.

As evidence of this, billings by dates of service show that Abraxas went from \$2.2 million in the quarter ending 12/93 to \$1.8 million in quarter ending 3/94 to \$1.5 million by 6/94, the first full quarter following the manual's distribution.

CONCLUSIONS AND RECOMMENDATIONS: (page 15)

Recommendation:

"Work with HCFA to perform a medical review of services provided by Abraxas and other residential BHCs in West Virginia to determine if the services are medical or remedial services that provide maximum reduction of the client's mental disability and restore the client to the best possible functional level."

Response:

The State agency accepts in part the first recommendation of the review "to work with HCFA to perform a medical review of services provided by Abraxas and other residential BHC's in West Virginia"; however, we also point out that prior to the review, the State agency had acted to resolve the root of the problem which we believed was the fee-for-service methodology and its inherent openness to abuse in a residential setting (e.g. as noted in the review "Abraxas generally bills for all hours the client is awake"). As pointed out on pages 2 and 3 of the review, this methodology was revised effective 1-1-95 to a daily fee commensurate with a service level designation certified by the State agency. Therefore, as stated, the State agency believes that this recommendation will prove counterproductive to the extent that it would involve tying up staff resources in lengthy reviews which focus on services which can no longer be billed by this particular group of providers (i.e. dually licensed behavioral health agencies). We would prefer to utilize our monitoring staff with current reviews.

RECOMMENDATION:

"Provide HCFA with periodic status reports on the results of these reviews."

RESPONSE:

The state agency concurs in part, please see response to recommendation #1 above.

RECOMMENDATION:

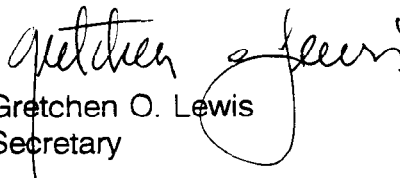
"Make a financial adjustment of \$135,654 (Federal Share \$102,717) for unallowable rehabilitation services identified in this report and any additional unallowable rehabilitation services identified in future reviews conducted by the State Agency."

RESPONSE:

The State agency concurs but would like to stress that in a structured residential environment such as Abraxas leisure activity has therapeutic value in day to day interactions. This is not to say that every leisure activity is appropriate to be billed under rehabilitation service nor is it appropriate to bill for every client. The leisure activity must be tied back to the treatment plan with definable goals and objectives. For instance, if a client has difficulty in getting along with his peers in a group setting an hour of a structured sport activity may assist him in coming to terms with this problem. If the treatment plan clearly defines the therapeutic value of the leisure service and pinpoints the activity and the desired outcome, leisure activity has a sound clinical therapeutic basis.

In closing, we would like to commend your staff for their professionalism during this review process. We found their comments and recommendations to be very helpful to us.

Very truly yours,


Gretchen O. Lewis
Secretary

GOL:rma
Enclosure

cc: Ann M. Stottlemeyer, Commissioner
Bureau for Medical Services